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SENATE

REPORT
101-466

LINE-ITEM VETO

SEPTEMBER 19 (legislative day, SEPTEMBER 10), 1990.—Ordered to be printed

Mr. BIDEN, from the Committee on the Judiciary, submitted the following

REPORT

together with

ADDITIONAL AND MINORITY VIEWS

[To accompany S.J. Res. 14 and S.J. Res 23]

The Committee on the Judiciary, to which was referred the bill (S.J. Res. 14) proposing an amendment to the Constitution of the United States to allow the President to veto items of appropriation and (S.J. Res 23) proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations, having considered the same, reports favorably thereon and recommends that the bills do pass.

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I. PURPOSE

The purpose of the proposed legislation is to amend the Federal Constitution to grant the President the authority to veto an item of appropriation in the case of S.J. Res. 14 and to disapprove or reduce an item of appropriation in the case of S.J. Res. 23. The proposed legislation is intended to restore fiscal restraint to the budgetary process, curtail unnecessary Federal spending and reduce the national debt.

II. LEGISLATIVE HISTORY

During the deliberations of the Constitutional Convention of 1787, the line-item veto was not discussed. The first legislation to grant the President line-item veto authority was introduced in Congress on January 18, 1876. Like S.J. Res. 14 and S.J. Res. 23, the first legislation was a proposed amendment to the Federal Constitution.

Since that time, over 150 bills and resolutions have been introduced granting the President line-item veto authority. The Committee on the Judiciary last approved a proposed constitutional amendment to grant the President line-item veto authority in 1884. The House of Representatives approved by voice vote an amendment to an appropriations bill for a proposed constitutional amendment in 1938, but the Senate failed to approve the legislation.

In the 101st Congress, Senator Thurmond introduced S.J. Res. 14 on January 25, 1989. Senator Dixon and Senator Simon introduced S.J. Res. 23 on the same day. On April 11, 1989, Senator Simon chaired a hearing of the Constitution Subcommittee on this legislation.

Among the witnesses heard by the subcommittee were six members of the Senate: Alan Dixon (D-IL), Strom Thurmond (R-SC), Gordon J. Humphrey (R-NH), John S. McCain (R-AZ), Robert C. Byrd (D-WV), Mark O. Hatfield (R-OR), and one member of the House of Representatives (Mickey Edwards (R-OK)).

Also testifying before the subcommittee were Dr. James Miller, distinguished fellow, Citizens for a Sound Economy; Dr. Lawrence A. Hunter, deputy chief economist, U.S. Chamber of Commerce; James Dale Davidson, chairman, National Taxpayers Union; Raymond C. Scheppach, executive director, National Governors' Association; Jerry D. Klepner, director, American Federation of State, County and Municipal Employees (AFSCME); Arnold Cantor, assistant director, Economic Research Department, AFL–CIO; Prof. Neal E. Devins, Marshall-Wythe School of Law, College of William & Mary; and Dr. Louis Fisher, senior American specialist, Government Division, Congressional Research Service.

On June 8, 1989, the Constitution Subcommittee voted to report without recommendation S.J. Res. 14 and S.J. Res. 23 to the Committee on the Judiciary.

On April 26, 1990, the Committee on the Judiciary considered S.J. Res. 14 and S.J. Res. 23. The chairman offered as a substitute amendment to S.J. Res. 14 a statute to separately enroll each item of an appropriations bill for presentment to the President who could then approve or disapprove each item. The substitute failed

passage. The committee then approved S.J. Res. 14 and S.J. Res. 23 on successive 8–6 votes.

III. DISCUSSION

The committee has approved S.J. Res. 14 and S.J. Res. 23, the line-item veto proposals, because of its belief that the fiscal policy of our Nation is in critical need of strong disciplinary action. According to the Department of the Treasury, the national debt recently topped $3 trillion. The Nation's deficit for fiscal year 1989 was a staggering $152 billion.

The growth of the Federal deficit threatens to overshadow all other problems facing our Nation. Money spent annually on interest takes away from our ability to fight drugs and crime, build affordable housing, provide adequate medical care to all of our people and deal with a host of other problems. Moreover, interest payments represent a shift in wealth or funds from low- and middle-income taxpayers to those institutions and individuals, sometimes overseas, who are already well off and can afford to invest. We are mortgaging our future for generations to come. The line-item veto proposals focus on one tool to address this problem.

Amending the Constitution is not something Congress, or the Committee on the Judiciary, proposes often. We have added only 16 amendments to the Constitution since the Bill of Rights. The committee last approved a constitutional amendment for a line-item veto in 1884. But the growing Federal deficit shows more clearly with each passing year that Presidents and Congress are failing to live within the Government's means.

Congress regularly enacts approriations measures, totaling billions and billions of dollars, that contain items tucked away representing millions of dollars of expenditures that would have very little chance of passing on their own merit. Yet, the President has no discretion to weed out these unnecessary expenditures and must approve or disapprove the appropriations bill or resolution in its entirety. The line-item veto proposals give the President that discretion. Absent congressional will and fortitude and leadership to reduce spending, the proposals are necessary to help alleviate these serious budgetary problems.

Forty-three State Governors currently have line-item veto authority in one form or another. Some have the binary veto system as outlined in S.J. Res. 14. Governors in these States may disapprove an item or items of appropriation without having to veto the entire bill. Ten States have an item-reduction veto as well. This is the model followed by S.J. Res. 23. In the item-reduction model, the executive has the added flexibility of reducing an appropriations amount rather than having the all-or-nothing choice of vetoing or not vetoing the item.

Significantly, previous Congresses have granted the line-item veto authority to territorial Governors when it enacted the organic laws for territories. In this century, organic laws passed for Hawaii, Alaska, the Philippine Islands, Puerto Rico, Guam, and the Virgin Islands all contained line-item veto authority on appropriations bills for the territorial Governors.

Under S.J. Res. 14, the President may approve an appropriations bill or resolution in its entirety; veto it in its entirety; or single out an item or items and return those to the originating House with his objections. The remaining parts of the bill become law and the returned items may be reconsidered by Congress. They, too, become law on the reconsideration and approval of two-thirds of each House.

It should be emphasized that S.J. Res. 14 grants the President authority to approve or disapprove individual items of appropriation. Under S.J. Res. 14, the President would not have power to simply reduce the dollar amount legislated by the Congress. Consistent with the Constitution, the President must approve or disapprove these items in their entirety and further requires a two-thirds vote of each body to override a line item veto.

Some worry that a line-item veto would shift too much power over spending away from Congress and toward the President. Mindful of these concerns, S.J. Res. 23 takes a different road to fiscal discipline. S.J. Res. 23 carefully avoids disrupting the checks and balances between the President and Congress in some significant ways.

First, S.J. Res. 23 requires a simple majority, rather than two-thirds of each House, to override a Presidential veto of an appropriations item or to restore an appropriations amount reduced by the President. In other words, S.J. Res. 23 is faithful to the principle that a majority of Congress has the power to appropriate funds. Gone, however, would be the pork barrel programs that are added to an appropriations bill but that cannot withstand scrutiny and that do not enjoy the support of a majority in Congress.

No line-item veto proposal can eliminate all excessive spending. The line-item veto can effectively reinstate the constitutional requirement that appropriations must have majority support within Congress. Those items or programs that have majority support are not endangered by the line-item veto. Those that do not are rightly going to be subject to further review. In short, the majority-vote requirement for reconsideration eliminates the possibility that the President with but a small minority in Congress can control the appropriations process.

Second, S.J. Res. 23 permits the President to either disapprove an item in its entirety or to reduce an item. In the latter case, the amount of an item that is not reduced becomes law while the remainder is returned to Congress for reconsideration. By leaving open a middle ground between the full appropriated amount and zero funding, this feature of S.J. Res. 23 may actually be more effective in helping to restrain the growth of spending than the simple binary method.

Third, S.J. Res. 23 does not apply to appropriations of the legislative branch. Line-item veto authority over the budget of the legislative branch could potentially so involve the executive in the internal workings of the legislative branch as to upset the co-equal nature of these branches.

Presidential authority for a line-item veto is a badly needed fiscal tool that will provide a valuable means to reduce and restrain excessive appropriations. S.J. Res. 14 and S.J. Res. 23, the line-item veto proposals, send a clear message to the American

people that Congress is making a serious effort to get our Nation's fiscal house in order.

IV. VOTE OF THE COMMITTEE

On April 26, 1990, with a quorum present, the Committee on the Judiciary, by successive votes of 8 to 6, ordered the bills, Senate Joint Resolution 14 and Senate Joint Resolution 23, favorably reported.

V. TEXTS OF S.J. RES. 14 AND S.J. RES. 23

S.J. RES. 14

JOINT RESOLUTION proposing an amendment to the Constitution of the United States to allow the President to veto items of appropriation

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

"Article—

"The President may disapprove any item of appropriation in any Act or joint resolution. If an Act or joint resolution is approved by the President, any item of appropriation contained therein which is not disapproved shall become law. The President shall return with his objections any item of appropriation disapproved to the House in which the Act or joint resolution containing such item originated. The Congress may, in the manner prescribed under section 7 of article I for Acts disapproved by the President, reconsider any item of appropriation disapproved under this article.".

S.J. RES. 23

JOINT RESOLUTION proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"Article—

The President may reduce or disapprove any item of appropriation in any Act or joint resolution, except any item of appropriation for the legislative branch of the Government. If an Act or joint resolution is approved by the President, any item of appropriation contained therein which is not reduced or disapproved shall become law. The President shall return with his objections any

item of appropriation reduced or disapproved to the House in which the Act or joint resolution containing such item originated. The Congress may, in the manner prescribed under section 7 of the article I for Acts disapproved by the President, reconsider any item disapproved or reduced under this article, except that only a majority vote of each House shall be required to approve an item which has been disapproved or to restore an item which has been reduced by the President to the original amount contained in the Act or joint resolution.".

VI. SECTION-BY-SECTION ANALYSIS

S.J. Res. 14 is a one-section joint resolution that proposes an amendment to the Constitution of the United States to allow the President to veto items of appropriation. The single article proposed to be added to the Constitution by this joint resolution shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within 7 years after the date of its submission to the States for ratification.

The amendment to the Constitution proposed by this joint resolution modifies the way in which appropriations bills and joint resolutions are enacted. Acts or resolutions that do not make appropriations are not affected by this joint resolution and their enactment requirements remain the same.

Currently, the President must return legislation with his objections within 10 days after it is presented to him or it becomes law. The amendment authorizes the President to return any single item of appropriation but still permit the remaining parts of the overall act or joint resolution to become law.

Under this amendment, except for any item or items disapproved, if an act or joint resolution is approved by the President, it shall become law. For any item or items disapproved, the President shall return them with his objections to the House in which the Act or joint resolution originated. Under this amendment, Congress may then apply its current powers prescribed by section 7 of the article I to reconsider the item or items disapproved by the President.

S.J. Res. 23 is a one-section joint resolution that proposes an amendment to the Constitution of the United States to allow the President to reduce or veto any item or items of appropriation. The single article proposed to be added to the Constitution by this joint resolution shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within 7 years after its submission to the States for ratification.

The amendment to the Constitution proposed by this joint resolution modifies the way in which appropriations bills and joint resolutions are enacted, but in a different way from S.J. Res. 14. It is both more limited and more expansive than S.J. Res. 14. It is more limited because it does not apply to an item of appropriation for the legislative branch. It is more expansive because it not only authorizes the President to disapprove any item of appropriation, it also authorizes the President to reduce an item of appropriation.

Those items not disapproved or not reduced shall become law in their full or reduced amounts respectively.

Another significant and central difference between S.J. Res. 14 and S.J. Res. 23 is that the latter requires only a majority vote of each House to approve an item that has been disapproved, or to restore to its original amount an item that has been reduced by the President, rather than the two-thirds vote required in each House by section 7 of article I and retained by S.J. Res. 14. In other respects, S.J. Res. 23 makes the same changes to the Constitution that S.J. Res. 14 makes.

VII. COST ESTIMATES

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 14, 1990.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

The Congressional Budget Office has reviewed S.J. Res. 14, a joint resolution proposing an amendment to the Constitution of the United States to allow the President to veto items of appropriation, as ordered reported by the Senate Committee on the Judiciary, April 26, 1990.

S.J. Res. 14 would propose an amendment to the Constitution of the United States to allow the President to veto items of appropriation. The amendment would have to be ratified by three-fourths of the states within seven years of its submission for ratification. This resolution, by itself, would have no direct effect on the budget. If the amendment is ratified by the states, its effect would depend on how and when the veto authority would be used by various presidents. CBO has no basis for predicting the impact of this amendment on the budget.

Enactment of this legislation would result in no significant direct cost to state and local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mitchell Rosenfeld, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 14, 1990.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

The Congressional Budget Office has reviewed S.J. Res. 23, a joint resolution proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations, as ordered reported by the Senate Committee on the Judiciary, April 26, 1990.

S.J. Res. 23 would propose an amendment to the Constitution of the United States authorizing the President to disapprove or reduce an item of appropriations. The amendment would have to be ratified by three-fourths of the states within seven years of its submission for ratification. This resolution, by itself, would have no direct effect on the budget. If the amendment is ratified by the states, its effect would depend on how and when the veto authority would be used by various presidents. CBO has no basis for predicting the impact of this amendment on the budget.

Enactment of this legislation would result in no significant direct cost to state and local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mitchell Rosenfeld, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

VIII. REGULATORY IMPACT STATEMENT

Pursuant to paragraph 11(b), rule XXVI of the Standing Rules of the Senate, the committee, after due consideration, concludes that the Senate Joint Resolutions 14 and 23 will not have direct regulatory impact.

ADDITIONAL VIEWS OF CHAIRMAN BIDEN

I. INTRODUCTION

If the constitutional balance between the legislative and executive branches is to be protected, the power to veto items of appropriation must be established through a statute. For this reason, the statutory alternative I offered to S.J. Res. 14 and S.J. Res. 23 deserves the support of the Senate.

Congressional passage of bills and presentment to the President for his signature or veto

> represents the Framers' decision that the legislative power of the Federal Government be exercised in accord with a single, finely wrought and exhaustively considered, procedure. (*INS* v. *Chadha,* 462 U.S. 919, 951 (1983) (Burger, C.J.).)

The line-item veto power will alter this procedure. Such a change is warranted, I believe, by massive Federal budget deficits. The task before us is to institute the line-item veto, while retaining safeguards against damaging the fundamental and centuries-old balance of power that is a cornerstone of our Constitution and our government.

Put simply, the statute I proposed maintains the careful balance between Congress and the President, while the amendments reported by the committee do not. The only advantage of the constitutional amendments cited by their supporters is, in fact, their greatest shortcoming: once ratified, the constitutional line-item veto will be very difficult to reverse. Should line-item veto prove to be a failure in practice, the permanence of an amendment would be deeply regretted. Enacting the statute I proposed avoids this serious risk.

II. WHY I SUPPORT LINE-ITEM VETO

I believe a statutory line-item veto will help restore responsibility to the Federal budget process. Under the current system, the President must veto an entire appropriations bill in order to eliminate just one item. This contributes to a lack of Presidential accountability. The fact that omnibus appropriations bills have become increasingly commonplace in recent years has only compounded this problem.

By expanding authority to veto items of appropriation, a new element of Presidential accountability for correcting abuses of the budget process will be established.

This heightened fiscal responsibility will result in real savings. Critics of line-item veto emphasize the limited nature of these savings. While estimates differ, it appears clear that savings from line-item veto could amount to billions of dollars on an annual basis.

This is no cure-all for the problem of deficits and debt, but it is a step in the right direction and a step that I believe must be taken.

III. THE STATUTORY ALTERNATIVE

A. How the statute works

The statutory line-item veto I proposed functions not by expanding the President's involvement in the legislative process but merely by changing an internal rule of Congress. The statutory line-item veto would institute a process referred to as "separate enrollment." Under the separate enrollment process, each numbered section or unnumbered paragraph of an appropriations bill passed by Congress would be enrolled as a separate bill by either the Secretary of the Senate or the Clerk of the House of Representatives, depending upon where the funding measure originated. Each item of appropriations would then be presented to the President as a separate bill.

The President would be able to veto individual appropriations items by exercising the veto power made available to the chief executive by the framers of the Constitution. No further intrusion by the President into the lawmaking function of Congress would be necessary beyond that already allowed by the Constitution.

Because the statutory line-item veto creates the power to veto items of appropriation by changing congressional procedures, Congress would retain control over its lawmaking authority. This change in congressional rules could be reversed, and the line-item veto power ended, by passing a subsequent statute.

The statutory line-item veto I proposed contains a 2-year sunset provision. Section 4 of my legislation states that, if not reauthorized, the provisions of the statute will lose their effect after 2 years. Thus, if line-item veto proves to be a failure in practice, it will not remain part of the legislative process.

B. Advantages of the statute

At the April 11, 1989, hearing on line-item veto held by the Judiciary Subcommittee on the Constitution, critics of the line-item veto pointed to the effect this power would have on dealings between the President and Members of Congress. With the power to veto projects highly valued by a particular Senator or Representative, the President would be in a dominant position, it was argued, to demand support for his legislative initiatives.

Senator Hatch stated that he could envision the line-item veto, "being used in some very, very inappropriate ways by future Presidents. I can see it being an extortion device." (Hearing transcript at 21; see also, transcript at 43.) Congressman Mickey Edwards referred to the potential for legislative "blackmail" by the President. (Hearing transcript at 52.) Senator Hatfield agreed. (Hearing transcript at 72.)

Other witnesses testifying at the Constitution Subcommittee's hearing challenged the view that line-item veto would result in inappropriate pressure tactics by the President. Regardless of who is correct, there exists at least the possibility that line-item veto will be unsuccessful.

The statutory line-item veto contains safeguards against problems arising from a shift in power from Congress to the President. If the concerns addressed by Senators Hatch and Hatfield, and Congressman Edwards became a reality, Congress could eliminate the President's expanded veto power simply by passing a subsequent statute, or by allowing the existing statute to expire through its sunset provision.

The constitutional amendments reported by the committee do not provide these protections. Absent a subsequent constitutional amendment, the shift of power from the legislative to the executive branch would be permanent.

Additionally, a statute would take effect much sooner than would a constitutional amendment. A statutory line-item veto would become law once it was passed by Congress and signed by the President. A constitutional amendment must be ratified by three-quarters of the States. In all likelihood, this would take a number of years. The statutory line-item veto power thus has the twin advantages of being both a quicker route to fiscal responsibility and, because of its safeguards, the more prudent one.

Recognizing these advantages, on July 25, 1990, the Budget Committee favorably reported a statutory line-item veto bill virtually identical to my proposal. Senator Hollings, the sponsor of the Budget Committee's line-item veto measure, remarked that, "the separate enrollment approach makes more good sense than any solution I have seen." (Letter of Senator Hollings to Senator Biden, July 26, 1990.)

C. Constitutionality of the statute

Under the separate enrollment process instituted by the statutory line-item veto, the items of appropriation presented to the President would not be passed according to routine lawmaking procedures. Congress would vote on the original appropriations bill, but would not vote again on the separately enrolled bills presented to the President. The absence of a second vote on the individual items of appropriation has raised questions of constitutionality. For the following reasons, such concerns are unfounded.

1. No change in congressional authority

Each House of Congress has the power to make and amend the rules governing its internal procedures. And, of course, Congress has complete control over the content of the legislation it passes. Thus, the decisions to initiate the process of separate enrollment, to terminate the process through passage of a subsequent statute, to pass a given appropriations bill, and to establish the sections and paragraphs of that bill, are all fully within Congress' discretion and control.

A requirement that Congress again pass each separately enrolled item would be only a formal refinement—not a substantive one. It would not prevent power from being shifted from Congress to the President, because under the statutory line-item veto Congress will retain the full extent of its legislative power. Nor would it serve to shield Congress from the process of separate enrollment, because Congress will retain the discretion to terminate that process.

2. House Rule XLIX: Statutory Limit on the Public Debt

Rule XLIX of the House of Representatives empowers the enrolling clerk of the House to prepare a joint resolution raising the debt ceiling when Congress adopts a concurrent resolution on the budget exceeding the statutory limit on the public debt.

This procedure, which has been in existence since 1979, provides a clear precedent for the separate enrollment of items of appropriation. The House never votes on the joint resolution. Nonetheless, the House is "deemed" to have voted on the resolution because of its vote on the concurrent resolution. House Rule XLIX states, in part:

> The vote by which the conference report on the concurrent resolution on the budget was agreed to in the House . . . shall be deemed to have been a vote in favor of such joint resolution upon final passage in the House of Representatives.

House Rule XLIX has not been found unconstitutional because of its modification of routine lawmaking procedures. The joint resolution engrossed by the clerk is transmitted to the Senate for further action, and then presented to the President for his signature. This process has been in effect for a decade. Despite the absence of a separate vote by the House on the joint resolution, there have been no constitutional challenges.

IV. WHY I OPPOSED S.J. RES. 14 AND S.J. RES. 23

First, I want to identify one argument that did not contribute to my opposition to the constitutional amendments reported by the committee: It is not the case that I oppose expanding the veto power of the President. As my support for a statutory alternative makes clear, I favor the line-item veto. My opposition to a constitutional amendment is focused on the dangers of amending the Constitution to accomplish this goal.

Given the availability of a statute to create the line-item veto power, it simply is not necessary to amend the Constitution. The Constitution should be amended as a last—not a first—resort. I voted against S.J. Res. 14 and S.J. Res. 23 because these proposals would unnecessarily alter the balance of power between the legislative and executive branches established by the Constitution.

I further believe that each of the amendments offered in committee contain serious and fundamental flaws. The President should not be granted the additional power to reduce items of appropriation provided by the Simon-Dixon amendment. The Constitution limits the President's role in the legislative process to either signing bills into law that have been passed by Congress, or vetoing such bills. The statutory line-item veto I proposed, as well as Senator Thurmond's constitutional amendment, would expand the President's power only by allowing for the veto of individual appropriation items. In keeping with the procedures prescribed by the Constitution, the President would be required to choose between accepting or eliminating the programs funded by Congress in the form they were enacted.

The Simon-Dixon amendment would go much further and give the President the power to reduce appropriation items. This enormous expansion of Presidential authority would allow the President to modify every funding figure proposed by Congress. I strongly oppose such an extensive intrusion by the President into Congress' lawmaking authority. The power to reduce items of appropriation is an extreme and ill-advised addition to the normal conception of the line-item veto.

For example, if Congress appropriates funds for 100 new tanks, the President should be able to disapprove that item of appropriations. My proposal would provide that authority. However, the President should not be allowed to rewrite that bill and to reduce funding to an amount sufficient for only 50 tanks, or 37 tanks, or any other figure corresponding to his view on the matter.

Senator Thurmond's proposed amendment suffers from a different problem. Under Senator Thurmond's amendment, the regular two-thirds majority in both Houses of Congress would be required to override the President's veto of an item of appropriations. Unlike the Simon-Dixon amendment, Senator Thurmond's proposal fails to reduce the required percentage for an override to a simple majority. Thus, 34 Senators would be able to thwart the will of Congress to fund a program. Because the balance between Presidential veto and congressional override will be altered by the line-item veto, I oppose an amendment that makes permanent such a high standard for restoring Congress' funding decisions.

APPENDIX: STATUTORY LINE-ITEM VETO PROPOSED BY CHAIRMAN BIDEN

PURPOSE: To provide that each item of any general or special appropriation bill and any bill or joint resolution making supplemental, deficiency, or continuing appropriations that is agreed to by both Houses of the Congress in the same form shall be enrolled as a separate bill or joint resolution for presentation to the President.

SECTION 1. SEPARATE ENROLLMENT OF ITEMS OF CERTAIN BILLS AND JOINT RESOLUTIONS MAKING APPROPRIATIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, when any general or special appropriation bill or any bill or joint resolution making supplemental, deficiency, or continuing appropriations passes both Houses of the Congress in the same form, the Secretary of the Senate (in the case of a bill or joint resolution originating in the Senate) or the Clerk of the House of Representatives (in the case of a bill or joint resolution originating in the House of Representatives) shall cause the enrolling clerk of such House to enroll each item of such bill or joint resolution as a separate bill or joint resolution, as the case may be.

(b) PREPARATION AND ENROLLMENT.—A bill or joint resolution that is required to be enrolled pursuant to subsection (a)—

(1) shall be enrolled without substantive revision,

(2) shall conform in style and form to the applicable provisions of chapter 2 of title 1, United States Code (as such provisions are in effect on the date of the enactment of this Act), and

(3) shall bear the designation of the measure of which it was an item prior to such enrollment, together with such other designation as may be necessary to distinguish such bill or joint resolution from other bills or joint resolutions enrolled pursuant to subsection (a) with respect to the same measure.

SEC. 2. PROCEDURES.

A bill or joint resolution enrolled pursuant to subsection (a) of section 1 with respect to an item shall be deemed to be a bill under Clauses 2 and 3 of Section 7 of Article 1 of the Constitution of the United States and shall be signed by the presiding officers of both Houses and presented to the President for approval or disapproval (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.

SEC. 3. DEFINITION.

For purposes of this Act, the term "item" means any numbered section and any unnumbered paragraph of—

(1) any general or special appropriation bill, and

(2) any bill or joint resolution making supplemental, deficiency, or continuing appropriations.

SEC. 4. APPLICATION.

The provisions of this Act shall apply to bills and joint resolutions agreed to by the Congress during the two calendar-year period beginning with the date of the enactment of this Act.

X. ADDITIONAL VIEWS OF SENATOR KENNEDY

I fully support giving the President line-item veto authority over appropriations bills. The line-item veto has shown itself to be a useful tool for the Nation's governors; and it would make clear exactly where the responsibility falls for our budget deficits.

It is abundantly clear from the text of the Constitution itself that the President does not have the authority under current law to exercise a line-item veto. The continuous practice under our Constitution for more than 200 years confirms this view. If the President is to exercise line-item veto authority, a change in the law is needed.

The appropriate means to give the President such authority is through statute. The Constitution is the sacred charter of our liberties. It should be amended only when no other means is available to achieve the desired ends.

I am convinced that Congress has the authority under the Constitution to enact legislation to give the President line-item veto authority. In these circumstances, I believe that it is inappropriate to try to amend the Constitution. For that reason, I voted against reporting the proposed constitutional amendments.

TED KENNEDY.

XI. ADDITIONAL VIEWS OF SENATOR METZENBAUM

I oppose the granting to the President the power to veto specific items in legislation passed by Congress. I believe this is a bad policy because the line-item veto disrupts the constitutional balance among branches. The consolidation of power in the Presidency is dangerous—whether the President is a Republican or a Democrat.

The fallacy of the line-item veto is that it will not reduce the deficit. It could not be used on mandatory programs such as medicaid and Social Security, or to reduce interest payments on the debt. In fact, the line-item veto could be applied to less than one-fourth of the annual budget. In the end, the savings generated by the line-item veto will be minimal at best.

In order to deal with the budget deficit, Congress has to knuckle down and make hard choices. Budget bills represent carefully crafted compromises. The President certainly has ample opportunity to participate in the budget process without exerting final control. Congress should not abdicate all responsibility by turning the red pen over to the President.

XII. ADDITIONAL VIEWS OF SENATOR HATCH

I am opposed to a constitutional amendment providing a line-item veto for the President. I believe this would shift undue power to the President in derogation of the sound principle of the separation of powers, one of the cornerstones of our constitutional system. Moreover, I do not believe that a line-item veto will result in a net reduction in the Federal deficit. I voted to report these measures, however, because I believe that the full Senate should have the opportunity to work its will on this issue.

In my view, a balanced budget constitutional amendment is the appropriate and more effective manner of addressing the deficit problem.

ORRIN HATCH.

XIII. MINORITY VIEWS OF SENATORS DECONCINI, METZENBAUM, LEAHY, AND KOHL

The Judiciary Committee has voted to report two constitutional amendments to provide the President with line-item veto authority over appropriations. For over a century, the Congress has considered and rejected proposals to grant the President a line-item veto. These current proposals are constitutionally and fiscally irresponsible, and the Congress should, as it has in the past, reject them.

Article I, section 9 of the Constitution gives the power of the purse to Congress, not to the President. The line-item veto would irrevocably change the balance of power in favor of the Executive and undermine the separation of powers so carefully crafted by our Founding Fathers and incorporated in the Constitution. And it would seriously impair the most significant power which Congress has over the President—the power of the purse.

The line-item veto would fundamentally enhance the power of the President and transform the way in which the Federal Government traditionally has conducted its business. It would heighten disputes between the Executive and the Congress rather than reduce them, and it could be the source of gr is not beyond the not beyond the realm of possibility that the President might threaten a Member's priority project unless the Member agreed to vote with the administration on a nonrelated issued, thus giving the President a powerful tool to advance his political agenda. The whole concept of vote trafficking should send shivers down all our spines.

The President's regular veto authority is sufficient to enable him to exert influence over the content of legislation. The threat of the veto is often sufficient to enable the President and the Congress to achieve a balanced compromise on legislation before it reaches his desk for signature. Administration officials ordinarily testify on pending legislation, fully participate in negotiations from the committee to the floor to conference, and inform legislators that a bill will be vetoed if provisions offensive to the administration are not removed. Throughout the history of our Republic, the threat of a veto has proved to be an extraordinarily effective Executive power.

Over the course of our history, 2,482 bills have been vetoed by our President, only 103 of which have been overridden by Congress. Under the current administration, 13 bills have been vetoed by President Bush and Congress has been unable to override any of them. This process has worked well for over 200 years and there is no compelling reason to change it. The line-item veto flies in the face of the system of checks and balances and dangerously enhances the power of the President. Vesting too much power in one branch of government is precisely what the framers of the Constitution were trying to avoid. The line-item veto is a dangerous, unnecessary and unwise course for Congress to pursue. It could seri-

ously threaten our system of government which has worked so well over the past 200 years.

Finally, based on the experience of States the line-item veto as an effective deficit reduction tool is questionable at best. Accordingly to a 1988 analysis of State government budgets by Douglas Holtz-Eakin, assistant professor of economics at Columbia University, a governor's line-item veto authority has no effect on spending over the long term, say 20 years, regardless of the partisan composition of the legislature and the governorship.

The line-item veto would have a marginal impact on deficit reduction since it would cover a very limited portion of the budget. For example, of the fiscal year 1990 enacted levels of spending, only 16.3 percent falls under the category of nondefense discretionary spending which is the only area of the budget over which the President would be likely to exercise his line-item veto authority. To argue that the line-item veto would be effective in reducing the deficit simply cannot be sustained by the facts.

For these reasons, we voted to oppose reporting these two bills and we hope they will be overwhelmingly rejected by the full Senate.

XIV. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the committee finds no changes in existing law caused by passage of Senate Joint Resolutions 14 and 23.

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